



VIVID

**Voices, Idea, Views, Insights and Dialogues for
Professionals working with Families in Transition**

FALL 2005

THE NEW YORK CHAPTER OF AFCC-NY MISSION STATEMENT

The well-being of children and families is a fundamental goal of our society and its legal system. The New York State Chapter of the Association of Family and Conciliation Courts is dedicated to using the experience, knowledge, and resources of judges, mental health professionals, attorneys, law guardians, mediators, and other professionals, to improve that well-being through cooperative efforts that seek new, less adversarial approaches to the resolution of child centered legal matters.

CO-PRESIDENT'S MESSAGE

by Steven Demby, Ph.D. and Leonard Florescue, Esq.

The focus of our energies over the past several months have been on the planning for our fourth Annual Conference, "Easing the pain, containing the conflict in divorce: Current research and approaches." The conference will be held on Friday December 2nd at the Bar Association of the City of NY. We believe we have put together a conference that promises to bring many experts together to dialogue about the challenging work we all do, in the best AFCC interdisciplinary tradition.

We are particularly pleased that Robert Emery, Ph.D. our keynote speaker, has agreed to come to New York. In my own practice I have often looked to Emery's authoritative and integrative research, articles, and books on child adjustment to divorce, mediation, and the psychology of relationship break-up as a source of insight and practical ideas. But I had never heard him speak. When I spoke to my New York colleagues about him, I got similar reactions. "Oh yes, I've read him. I'd love to hear him speak." So we were very excited when we contacted Professor Emery who told us he was interested and available to speak at AFCC-NY. (Perhaps we were fortunate in our timing, because he has a new book just coming out, *The Truth about Children and Divorce*.)

It also seems timely to bring Emery to New York since he is a researcher. This past year has seen a lot of debate on the role of research in informing recommendations in forensic evaluations. This has helped to raise our consciousness about the need for us all to keep current with the latest research in all areas of divorce practice.

But sometimes there is a gap between the neat and orderly world of research and the "messiness" of the real world we all practice in. For this reason, we have invited a distinguished group of panelists, who have all worked "in the trenches," to discuss the "real world" implications of Emery's findings following his presentation.

In the afternoon we are offering four workshops that cover aspects of what is new in approaches to "ease the pain, contain the conflict." We are pleased to be able to present leaders in their respective fields to run these workshops. The workshops cover the interdisciplinary team model in collaborative law, best practices in parenting coordination, a thoughtful consideration of the issues of domestic violence and mediation, and optimizing parenting capacities in parents with mental disorders in child custody. We believe that each of these workshops has something important to offer, and we hope you will think so too. Personally, they all sound quite interesting and we are having difficulty deciding which one to register for. We hope you will also feel similarly tempted by each.

This will be the last President's column we will be writing for Vivid, as our terms of office are coming to an end. Overall, we are happy to report that there have been more moments of exhilaration and excitement than frustration and disappointment over the past two years. It has been very validating to know that AFCC and AFCC- New York are filling an important need for interdisciplinary dialogue as we all search for better ways to serve families and children. We know we are onto something valuable because of the enthusiastic responses we get to our conferences and other outreach efforts. In this issue of Vivid, you will read about the success of recent, AFCC-NY-sponsored informal interdisciplinary meetings in Westchester. We would like to see local meetings such as these initiated throughout the State. We know that the strength and vitality of an organization such as AFCC-NY depends on the involvement of members like you. We know we have to make AFCC-NY feel like a professional "home" to more divorce professionals throughout the State, a "home" that adds value to their professional practice. As a chapter, we are still in our nascent stage and know that much more work needs to be done. Although it has taken a lot of effort to keep the Chapter growing, we have been

buoyed by the relationships with new colleagues we have formed along the way. We want to express our deep appreciation to the other officers of the Chapter and our Board who have contributed their energies and lent their support. We could not have done it without them. We feel confident about the future of the Chapter knowing that it will be in the competent and energetic hands of the Honorable W. Dennis Duggan, who will assume the presidency in January.

Inside this issue:

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Member profile:

Hon. W. Dennis Duggan – President-Elect, AFCC–NY

by Tracy Hamilton, MPA, JD

AFCC-NY Chapter's President-Elect W. Dennis Duggan has been an Albany County Family Court Judge since 1994. Prior to his election to Family Court, he was Deputy City Attorney for the City of Albany and in private practice for 18 years. Judge Duggan is a graduate of the University of Notre Dame, Albany Law School of Union University, the National Institute of Trial Advocacy and the Judicial Economics Institute.

Judge Duggan is a Trustee of the National Council of Juvenile and Family Court Judges and past President of the New York State Family Court Judges Association, in which he serves as its Legislative Chairperson. In addition, he has served as a Board Member of the American Judicature Society and the American Judges Association. Judge Duggan is a founding Board Member of the New York Chapter of the Association of Family and Conciliation Courts. He also serves on the faculty at the National Judicial College in Reno, Nevada.

Within the New York State Judiciary, Judge Duggan serves on the Judicial Institute Committee, the Family Court Advisory and Rules Committee and the Family Law Curriculum Development Committee. He is a member of the New York State Bar Association, the Capitol District Women's Bar Association, the Black and Latino Bar Association and the Albany County Bar Association.

Judge Duggan is a frequent lecturer at international, national and state judicial and legal conferences and at Albany Law School, where he has spoken on many diverse topics. For instance, he spoke to the Scottish Family Court Judges Association in Edinburgh on the topic of "Family Courts in America." He spoke to the National Judicial College in Reno on the topic of "Never Try a High Conflict Custody Case Again", and he spoke at an AFCC Conference in San Antonio on the topic of "The High Road to Best Interests: Getting Parents to Decide What's Best for Their Kids." In May of this year he was a member of a panel at a plenary session at the AFCC Annual Conference in Seattle and presented "Rock, Paper, Scissors: Playing the Odds With Relocation Law in America."

Judge Duggan has 25 published judicial opinions. Additionally, he has numerous published articles, and he writes a monthly column for the Albany County Bar Association Newsletter on topical issues concerning the history of the law.

In commenting briefly on becoming President of the AFCC-NY Chapter on January 1, 2006, Judge Duggan stated that he wished he had become involved with AFCC when he first became a judge. "AFCC is a stimulating organization for a judge because of the wide variety of

disciplines it brings together. AFCC conferences provide a combination of educational experience and informal collegiality that recharges your emotional and intellectual batteries and helps you to keep focused on what is really important about your job. Also, the Family Court Review, published by AFCC, is the best publication in its field."

Finally, in responding to questions concerning his personal life, Judge Duggan described his proudest personal achievement, with tongue only partly in cheek, as not having missed a day due to illness during his 12 years of service as a Family Court Judge. The last book that he read was Descartes' Error: Emotion, Reason and the Human Brain, by Antonio R. Damasio. Finally, you may be surprised to learn that Judge Duggan was born on the Seneca Indian Reservation in Western New York; that, prior to attending law school, he was a Journeyman Structural Ironworker; and that he is a licensed private pilot.

AFCC-NEW YORK CHAPTER

Officers:

Co-Presidents: Steven Demby, Ph.D.

Leonard Florescue, Esq.

President-elect: The Honorable W. Dennis Duggan

Vice President: Elaine Kirsch, LL.B., LLM

Treasurer: Teresa Ombres, Esq.

Secretary: Steven Abel, Esq.

Board Members:

Lauren Behrman, Ph.D

Hon. Tandra Dawson

Hon. Evelyn Frazee

Elayne E. Greenberg, M.S., J.D.

Tracy M. Hamilton, Esq.

Alayne Katz, Esq.

Paul J. Meller, Ph.D.

Andrea Phoenix, Esq.

Emily Ruben, Esq.

Prof. Andrew I. Schepard

Hon. Jacqueline Silbermann

Rod Wells, CFP

AFCC- NY Chapter Fourth Annual Conference

Easing the pain, containing the conflict in divorce: New research and approaches

Co-Sponsored by:



REGISTRATION

Date: December 2, 2005
Time: 8:00 AM to 4:00 PM
Location: Association of the Bar of the City of New York
 42 W. 44th Street ,New York, NY

Conference Program

- 8:00** Registration & continental breakfast
- 9:00** Welcoming Remarks:
 Steven Demby, Ph.D.
 Co- President, AFCC- NY
 The Hon. W. Dennis Dugan,
 President-Elect, AFCC-NY
- 9:15** Keynote Address:
Robert E. Emery, Ph.D.
The Truth About Children and Divorce: Latest research findings
- 11:15** Panel: Integrating the Research into Practice--
 The Honorable Tandra Dawson, JoAnne Pedro-Carroll, Ph.D., Emily Ruben, Esq., Leonard Florescue, Esq., moderator
- 12:00** Lunch (Provided)
- 1:00** Afternoon Workshops
- #1: Interdisciplinary Teams in Collaborative Law--
 Elaine Kirsch, Esq. & MaryEllen Linnehan, Esq.
- #2: Parent Coordination: Best Practices--Elayne E. Greenberg, Esq. & Marvin Aronson, Ph.D.
- #3: Is there a line in the sand? Mediation and domestic violence--
 Sue Pollet, Esq. & Dan Waitz, Esq.
- #4: Parental Mental Disorders and Child Custody: Optimizing parenting capacity--Sandra Kaplan, M.D.
- 3:00-4:00** Panel discussion and Q & A

Dr/Mr/Mrs/Ms	First Name	M.I.	Last Name
Organization			
Street Address			
City		State/Province	
Postal Code		Country	
Telephone		Fax	
E-mail			
Workshop #: First choice _____ Second choice: _____			
Professional Designation (check all that apply):			
<input type="checkbox"/> Attorney	<input type="checkbox"/> Academic		
<input type="checkbox"/> Court administrator	<input type="checkbox"/> Custody Evaluator		
<input type="checkbox"/> Judicial Officer	<input type="checkbox"/> Mediator		
<input type="checkbox"/> Mental Health Prof.	<input type="checkbox"/> Parent Educator		
<input type="checkbox"/> Law Guardian	<input type="checkbox"/> Other		
Conference registration fees: (includes lunch and program materials). All payments must be received by 11/25 or will have to be made at the door the day of the conference. No exceptions.			
<input type="checkbox"/> AFCC-NY Member		\$ 95	
<input type="checkbox"/> Non-member		\$125	
<input type="checkbox"/> Student		\$ 40	
<input type="checkbox"/> For CLE credits*	an additional	\$ 75	
Mail check (payable to AFCC-NY) and registration to: Teresa Ombres, Esq., DivorceLab, 38-39 Bell Boulevard, Suite 320, Bayside, NY 11361			
*Scholarship/hardship policy available: Call (718) 767-7667			
Registration Continues On Next Page			

Registration Continued

Robert E. Emery, Ph.D., is the Director of the Center for Children, Families, and the Law at the University of Virginia.. A nationally renowned divorce researcher, mediator, and author, he will present his latest findings on child adjustment in divorce, long term outcomes of mediation, and grieving relationship breakup. His presentation will be discussed by a distinguished panel of experts.

In the afternoon, choose one of four workshops run by leaders in their fields.

Presenters and Panelists:

Marvin Aronson, Ph.D., Founding Board Member, Parenting Coordination Assoc.

of N.Y.

The Honorable Tandra L. Dawson, Judge, NYS

Family Court, Acting Justice, Supreme Court, Bronx County

Leonard Florescue, Esq., Matrimonial attorney, Blank Rome

Elayne E. Greenberg, M.S., Esq., Co-developer, Parenting Coordination Program, Nassau County; Founding board member, Parenting Coordination Assoc. of NY

Sandra Kaplan, M.D., Professor of Clinical Psychiatry, NYU School of Medicine, Vice Chairman, Dep't. of Psychiatry, North Shore University Hospital

Elaine Kirsch, Esq., Collaborative Family Lawyer and divorce mediator

MaryEllen Linnehan, Esq., Collaborative Family Lawyer and divorce mediator

JoAnne Pedro-Carroll, Ph.D., Director of Programs For Children and Families, U. of Rochester

Susan Pollet, Esq. Executive Director, Pace Women's Justice Center

Emily B. Ruben, Esq., Attorney-in-charge, Legal Aid Society, Brooklyn Neighborhood Office, Civil Division

Daniel M. Weitz, Esq., State ADR Coordinator

Join AFCC and AFCC-NY

In order to take advantage of the member conference rate, I would like to join AFCC at a savings of \$10.

____ Enclosed are 2 checks, one for \$95 made payable to AFCC-NY and one for \$140 made payable to AFCC.

____ I am a member of AFCC. I want to join AFCC-NY. In addition to my \$95 check made payable to AFCC-NY for the conference, enclosed is my check (made out to AFCC) for (circle one) \$45 (individual); \$100 (institutional); \$5 student.

____ I want to become a Founding Member of AFCC-NY. Enclosed is a one time payment (made out to AFCC-NY) of \$100.00 (Limited to 100 Founding Members) plus my annual membership fee of \$45 made payable to AFCC.

Co-President's note:

This article describes a series of informal interdisciplinary meetings that were started in Westchester by two AFCC-NY Board members. We believe these meetings are an important way for the different disciplines to share experiences and perspectives. If you would like to participate in this kind of dialogue with other professionals in your geographical area and want some help getting started, contact AFCC-NY at afccny.org.

SCHEDULE IT AND THEY WILL COME

by Alayne Katz, Esq.

At our Board Retreat in March 2005, drawing on our organization's key strength, our interdisciplinary approach, we committed to sponsoring local gatherings as a home for genuine interdisciplinary dialogue regarding family conflict; i.e. a Grand Rounds with both legal and mental health professionals. After Board members Lauren Behrman, PhD and Alayne Katz, Esq. had a thoroughly engaging interdisciplinary dialogue walking the grounds of the Mohonk Mountain House on a snowy March 11, 2005, morning, they returned to Westchester County motivated to offer their colleagues the same opportunity.

On May 26th we held our first lunch meeting at the Westchester County Courthouse and 12 members attended; 4 legal and 8 mental health professionals. Dr. Behrman presented a case as the back drop to a lively and truly interdisciplinary dialogue. Our second meeting was on September 26, 2005, again at lunch time and in the Courthouse. It attracted 10 members evenly split between legal and mental health professionals. This time with neither a case presentation nor an agenda, we launched into discussions focusing on the different roles of family conflict professionals; i.e. mediators, attorneys, law guardians and parent coordinators. The consensus among the group was that some future meetings would focus on "urgent, problem cases", while others might focus on particular topics, such as when does psychiatric diagnosis impact on the best interests of children; what does a law guardian do; coordination between professionals, etc.

These meetings are also valuable insofar as they create an opportunity for professionals from different disciplines to "partner." These "partnerships" foster an ongoing dialogue where the mental health professional could benefit greatly from having access to legal wisdom regarding, for example, clarification of the legal procedures impacting their clients and the legal professional could benefit greatly from access to mental health professional's wisdom, for example, in understanding psychological testing.

Meetings are scheduled to continue approximately every 6 weeks, midday in the Courthouse (thanks to the support of the Honorable Francis Nicolai, the administrative judge of the 9th judicial district). The next two meetings are scheduled for October 28th and December 9th at 12:30pm - 2:00pm in the 7th floor conference room of the Westchester County Courthouse. All are welcome and please rsvp to Alayne Katz at 914-591-3278 or akatz@alaynekatzlaw.com. We hope that the meetings will continue to attract a diverse group of committed professionals and shall serve as a rich and stimulating program for Westchester County AFCC members.

New York Area's Best Lawyers, Divorce Without the Bloodbath: Collaborative law offers a kinder way to end a marriage.

by Elaine McCardle

What if there was a kinder, gentler way to get a divorce; one less damaging to your children, less stressful for you and less expensive? It is called collaborative law, and some New York lawyers hope it will revolutionize the way couples divorce.

Collaborative law keeps a divorce out of court. Spouses and their lawyers agree at the start to settle the case without litigation or even the threat of it. Instead of polarizing the parties, it encourages them to work through their differences for a satisfactory resolution. While it does not take away the pain of a marriage ending, it minimizes the emotional and financial strain on the family and lets them retain control instead of handing over their fates to the unpredictable court system.

"People more and more are looking for alternatives so a divorce doesn't have to become *The War of the Roses*, and collaborative law is a way to do that," says Elayne E. Greenberg, a family practice lawyer in Great Neck, N.Y.

"The reality is, divorce is a part of life, and people are realizing that how you divorce helps define the next chapter of your life," she adds. "So savvy people are more and more motivated to make sure they don't have an adversarial divorce. They realize divorce doesn't have to be an out-and-out bloodbath."

Since 95 percent of all divorces end up settling, she says, it makes no sense for attorneys to concentrate on preparing for trial— filing and arguing motions before a judge, for example, in an effort to gain strategic advantage. This pretrial sparring often leaves the spouses even angrier than before the divorce was filed, which can have lasting negative results, particularly distressing when children are involved.

"Collaborative lawyers are wiser, because they're saying, 'We are going to focus on having a quality settlement for you and your family,'" Greenberg says.

While collaborative divorce won't succeed for every couple, Greenberg and others believe that within 10 years, it could be the dominant method for divorce. That is because clients- and many lawyers- are desperate for alternatives to court, where both sides often feel battered by the process and unhappy with the results. "If you put a case in an adversarial system where you fight, of course people will be demonized and bring out the worst in each other. There truly are no winners," says Greenberg, a founding member of the Association of Family and Conciliation Courts.

Collaborative law was created over a decade ago by a Minnesota lawyer weary of the destructive nature of divorce litigation, and it has quietly but quickly spread throughout the country and overseas. But it was not until five years ago that New York lawyers began to try it. There are now about 75 lawyers in the New York Collaborative Law Group, based in Manhattan, as well as groups in Westchester County, Hudson/Orange County, Rochester and elsewhere. And it is gaining powerful supporters: New York's Chief Judge Judith S. Kaye has created a Matrimonial Commission that is studying ways to improve the state's divorce process including collaborative law.

The approach is simple. Each spouse hires a lawyer trained in collaborative law, and the couple and their lawyers sign a written agreement that they will not take the case to court. If they cannot negotiate a settlement and must litigate, the lawyers have to resign and the couple hires new lawyers to fight it out. All four parties are motivated to seek a fast and fair resolution because the lawyers have no financial incentive to drag the process out; indeed, it is in their interest to encourage their clients to work together. The secrecy and posturing fostered by an adversarial approach is replaced by cooperation and candor, supporters say. But collaborative law differs from mediation because both spouses have lawyers to advise them on their best interests and make sure they are not railroaded by the other side.

Because it is typically much faster than a traditional divorce, legal fees are lower. A collaborative divorce takes an average of four meetings between the spouses and their lawyers, says Adam J. Berner, president of the Family Divorce Mediation Counsel of Greater New York, and an adjunct professor at Cardozo School of Law. But the timing is up to the couple. "One of the benefits of collaborative law is that it's based on the pace of the parties and not court deadlines or attorneys who are pressuring to move it forward. It's in sync with needs of parties, so they're in control," he says.

"It's a real paradigm shift," adds Greenberg.

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Elaine McCardle is a freelance writer based in Massachusetts.

AND FINALLY... ANNOUNCEMENTS

The collation of NYS Conflict Resolution organizations (CONYSCRO) is sponsoring the First Joint Symposium of the NY Conflict Resolution Community at the NYS Judicial Institute in White Plains, NY November 4-5, 2005. The link for event is: <http://fdmcgny.org/consyscro05symposuim/index/html>